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# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/038,026 | 01/04/2002 | Bernhard P. Weisshaar | TC00151 | 7067 |

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MOTOROLA, INC.
Corporate Law Department - #56-238
3102 North 56th Street
Phoenix, AZ  85018

| EXAMINER |
|---|
| GANTT, ALAN T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2684 | |

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/038,026 | WEISSHAAR ET AL. |
| | Examiner | Art Unit | |
| | Alan T. Gantt | 2684 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☐ Claim(s) _____ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

# DETAILED ACTION

## *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 and 15-29 rejected under 35 U.S.C. 102(b) as being anticipated by

Eitzenberger.

Regarding claim 1, Eitzenberger discloses a vehicle system and method that includes a

central computer for performing data networking applications and one or more data

transmission channels with associated interfaces through which individual devices can be

connected with a central vehicle computer. There is a fleet management and route planning

component that is involved with this system and thus also includes a method of enabling the

transmission of data in a wireless communication network, said method comprising the steps of:

monitoring a plurality of communication interfaces; (Figure 5, ref. 9 and col. 6,

lines 20-39 –adaptive application control unit)

determining that a communication interface of said plurality of communication

interfaces has become available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39

– adaptive application control unit controls topology and resources)

informing an application that said communication interface has become available;

(col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control

unit controls topology and resources) and

transmitting data associated with said application on said communication

interface. (col. 3, lines 9-22)


Regarding claim10, Eitzenberger discloses a vehicle system and method that includes a

central computer for performing data networking applications and one or more data

transmission channels with associated interfaces through which individual devices can be

connected with a central vehicle computer. There is a fleet management and route planning

component that is involved with this system and thus also includes a method of enabling the

transmission of data in a wireless communication network, said method comprising the steps of:

monitoring a plurality of communication interfaces of a wireless communication

device associated with a vehicle; (Figure 5, ref. 9 and col. 6, lines 20-39 –adaptive

application control unit)

detecting that a communication interface of said plurality of communication

interfaces has become available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39

– adaptive application control unit controls topology and resources)

determining that said communication interface meets criteria set by an

application; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive

application control unit controls topology and resources)

informing said application that said communication interface has become

available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive

application control unit controls topology and resources there is communicating with

application by the control unit) and

transmitting data associated with said application on said communication

interface. (col. 3, lines 9-22)

Regarding claim 11, Eitzenberger discloses a vehicle system and method that includes a

central computer for performing data networking applications and one or more data

transmission channels with associated interfaces through which individual devices can be

connected with a central vehicle computer. There is a fleet management and route planning

component that is involved with this system and thus also includes a method of enabling the

transmission of data in a wireless communication network, said method comprising the steps of:

detecting that a communication

interface of said plurality of communication interfaces has become available;

(col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control

unit controls topology and resources)

determining that said communication interface meets criteria set by an

application; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive

application control unit controls topology and resources)

informing said application that said communication interface has become

available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive

application control unit controls topology and resources there is communicating with application by the control unit) and

transmitting data associated with said application on said communication interface. (col. 3, lines 9-22)


Regarding claim 20, Eitzenberger discloses a vehicle system and method that includes a central computer for performing data networking applications and one or more data transmission channels with associated interfaces through which individual devices can be connected with a central vehicle computer. There is a fleet management and route planning component that is involved with this system and thus also includes a method of enabling the transmission of data in a wireless communication network, said method comprising the steps of:

detecting that a communication interface of said plurality of communication interfaces of a telematics communication unit has become available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources, also Eitzenberger includes telematics application)

determining that said communication interface meets criteria set by said application; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources)

informing an application that said communication interface has become available; providing operating characteristics related to said communication interface; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources) and

transmitting data associated with said application on a first communication. (col. 3, lines 9-22)

Regarding claim 21, Eitzenberger discloses a vehicle system and method that includes a central computer for performing data networking applications and one or more data transmission channels with associated interfaces through which individual devices can be connected with a central vehicle computer. There is a fleet management and route planning component that is involved with this system and thus also includes a method of enabling the transmission of data in a wireless communication network, said method comprising the steps of:

monitoring a plurality of communication interfaces in a wireless communication device associated with a vehicle; (col. 3, lines 55-59)

detecting that a communication interface of said plurality of communication interfaces has become available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources, also Eitzenberger includes telematics application)

determining that said communication interface meets criteria set by an application; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources)

informing said application that said communication interface has become available; (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control unit controls topology and resources)

providing information related to said communication interface to said application;

(col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 – adaptive application control

unit controls topology and resources)

transmitting data associated with said application on said first communication

interface; (col. 3, lines 9-22) and

concurrently transmitting data associated with a second application on said second

communication interface. (col. 7, line 48 to col. 8, line 4)

Regarding claim 2 and12, Eitzenberger meets the limitation - The method of claim 1

wherein said step of monitoring a plurality of communication interfaces comprises monitoring a

plurality of communication interfaces of a telematics communication device. (Figure 1)

Regarding claim 3, 13, and 22, Eitzenberger meets the limitation - The method of claim 1

wherein said step of determining that a communication interface of said plurality of

communication interfaces has become available comprises determining that said

communication interface is not transmitting data for a second application. (col. 7, line 48 to col.

8, line 4)

Regarding claim 4, Eitzenberger meets the limitation - The method of claim 1 further

comprising a step of determining that said communication interface meets criteria set by said

application. (col. 7, line 48 to col. 8, line 4 – passage demonstrates that the adaptive application

control unit has this capability)


Regarding claim 5 and 15, Eitzenberger meets the limitation -The method of claim 1

further comprising a step of providing information related to said communication interface to

said application. (col. 7, line 48 to col. 8, line 4)


Regarding claim 6, 16, and 23, Eitzenberger meets the limitation - wherein said step of

providing information related to said communication interface comprises providing operating

characteristics of said communication interface. (col. 4, lines        66 to col. 5, lines 20 and col.

6, lines 20-39 – adaptive application control unit controls   topology and resources)


Regarding claim 7, 17 and 24, Eitzenberger meets the limitation - further comprising a

step of receiving a query from a second application. (col. 4, lines   66 to col. 5, lines 20 and col.

6, lines 20-39 – adaptive application control unit controls   topology and resources, thus, all

interfaces are in communicated )


Regarding claim 8, 18, and 25, Eitzenberger meets the limitation - wherein said step of

receiving a query from a second application comprises receiving a request to transmit data on a

second communication interface . (col. 4, lines 66 to col. 5, lines 20 and col. 6, lines 20-39 –

adaptive application control unit controls    topology and resources, thus, all interfaces are in

communication with the unit)


Regarding claim 9 and 19, Eitzenberger meets the limitation - The method of claim 8

further comprising a step of concurrently transmitting data associated with said second

application on said second communication interface.  (col. 4, lines 66 to col. 5, lines 20 and col.

6, lines 20-39 – adaptive application control unit controls   topology and resources, thus, all

interfaces are in communication with the unit)


### Allowable Subject Matter

Claims14 is objected to as being dependent upon a rejected base claim, but would be

allowable if rewritten in independent form including all of the limitations of the base claim and

any intervening claims.


Regarding claim 14, a method of enabling the transmission of data in a wireless network

in a telematics environment that includes determining that a communication interface meets

criteria set by an application comprises that requires that communication interface meets cost

criteria was neither found, suggested, nor made evident by the prior art.


### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Dauner et al. discloses a vehicle communication system having a plurality of equipment units for transmitting, receiving, acquiring and processing data for executing applications.

Clark et al. discloses a method of communicating standardized telematic messages among a plurality of telematic devices.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.


*Alan T. Gantt*
Alan T. Gantt

December 11, 2004

NICK CORSARO
PRIMARY EXAMINER